

COMMONWEALTH OF MASSACHUSETTS

DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY

Investigation by the Department on its own motion as to the propriety of the rates and charges set forth in the tariff filings by New England Telephone and Telegraph Company d/b/a/ Verizon

D. T. E. 98-57

#### MOTION TO COMPEL RESPONSES TO INFORMATION REQUESTS

##### Introduction.

AT&T Communications of New England, Inc. ("AT&T") hereby moves the Department of Telecommunications and Energy ("the Department") to compel Verizon Massachusetts ("Verizon") to provide responsive answers to certain discovery requests. Specifically, AT&T requests that the Department direct Verizon to provide further answers to ATT 9-4, ATT 9-5, ATT 9-9 and ATT 9-10.

##### Background.

Pursuant to the September 14, 2000, Scheduling Memorandum of the Hearing Officer in this docket, AT&T propounded its Ninth Set of Information Requests on Verizon on October 20, 2000. On November 3, 2000, Verizon provided responsive answers to some of AT&T's requests but objected to a number of requests and simply failed to respond to others. (1) The information requests that are the subject of this motion seek information that is highly relevant to a full and fair determination of the matters that are still at issue in this docket.

##### Specific Requests.

###### I. ATT 9-4 and ATT 9-5

In its September 7, 2000, Order, the Department addressed the issue of the 76 business day provisioning interval for collocation that it had prescribed in the Tariff No. 17 Order. As the Department noted, this interval is significantly longer than the 90 calendar interval that the FCC has recently mandated as the national default. See September 7 Order at 75. At the same time, the Department invited the participants in this docket to raise the issue of whether the current 76 business day interval should be reduced in light of the FCC's decision. *Id.* The Department stated that, if a participant did raise this issue, then the Department "would be willing to consider the appropriateness of this modification." *Id.*

In light of the Department's invitation, AT&T propounded two information requests (ATT 9-4 and ATT 9-5) upon Verizon in an attempt to determine whether there were any reasons why Verizon would not be able to meet a provisioning interval that was shorter than the current 76 business day interval. Instead of taking the opportunity to explain any reasons why it thought the current interval was appropriate, Verizon refused to answer the requests. Verizon claimed that the questions were irrelevant to any issues in this proceeding because the Department had already ruled on the issue of collocation provisioning intervals.

Apparently Verizon either did not read the Department's September 7 Order or chose to overlook that portion of the Order which explicitly stated that the Department was willing to reconsider the merits of the 76 business day interval for collocation provisioning. Either way, Verizon's argument lacks merit and Verizon's refusal to

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provide responsive answers is groundless. Therefore, Verizon should be compelled to immediately provide responsive answers to ATT 9-4 and ATT 9-5.

## II. ATT 9-9

In its response to DTE-BA 1-6, Verizon stated that CLECs are required to enter the Central Office through penetration of manhole zero because that is the method "that best suits the needs of the CLEC." See Verizon response to DTE-BA 1-6. In many situations, however, entrance to the Central Office through penetration of manhole zero is an inefficient, unnecessary and expensive process. Thus, AT&T propounded ATT 9-9 in an attempt to determine the basis for Verizon's surprising claim that this method "best suits the needs of the CLEC." Verizon did not object to ATT 9-9, but instead chose to simply ignore and not respond to subparts (b) and (c) without providing any reason why it was doing so and, in fact, without even acknowledging that it was doing so. Because Verizon has not objected to ATT 9-9, and because there would be no grounds for any such objection, the Department should compel Verizon to provide a responsive answer to all subparts of ATT 9-9.

## III. ATT 9-10

In ATT 9-10, AT&T inquired about the methods that Verizon uses to connect its own adjacent facilities to the Central Office. Verizon refused to respond to this request, claiming that it somehow exceeded the scope of the Hearing Officer's September 14, 2000, Procedural Schedule. In reality, however, the September 14 Procedural Schedule states that all of the areas discussed in the July 12, 2000, Hearing Officer Memorandum are appropriate topics for further discovery. See September 14 Procedural Schedule. The July 12 Hearing Officer Memorandum specifically stated that Adjacent Collocation is an area that was open for further discovery. See July 12 Hearing Officer Memorandum. Therefore, AT&T is puzzled by Verizon's objection and requests that the Department order Verizon to provide a responsive answer to ATT 9-10.

Conclusion.

The Department should compel Verizon to provide responsive answers to the information requests that are the subject of this motion. The answers to these information requests are highly relevant to the matters that are still at issue in this docket. By asserting baseless objections and refusing to answer these important information requests, Verizon has made it impossible for the Department and the other participants to assess the reasonableness of Verizon's tariff. Therefore, the Department should order Verizon to provide further responses to ATT 9-4, ATT 9-5, ATT 9-9 and ATT 9-10.

Respectfully submitted,

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1. 1 To the extent that Verizon has not provided any response to some of AT&T's information requests, AT&T requests that the Department order Verizon to immediately provide responses. When those responses are received, AT&T will evaluate whether a further motion to compel is necessary.